

# EXHIBIT 10

**In the Matter Of:**

*IN RE: PORK ANTITRUST LITIGATION*

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*ROB FOTI*

*July 07, 2022*

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1  
2 UNITED STATES DISTRICT COURT  
3 FOR THE DISTRICT OF MINNESOTA

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5 IN RE: PORK ANTITRUST LITIGATION

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10 VIDEOTAPED DEPOSITION OF ROB FOTI

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14 DATE: July 7, 2022

15 TIME: 9:36 a.m. Eastern

16 PLACE: \*\*\*REMOTE\*\*\*

17 BEFORE: Rebecca Schaumloffel, RPR, CCR-NJ

18 JOB NO: 2022-846889  
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R. Foti

calls for a legal conclusion, but  
witness may answer.

A. No.

Q. But who is responsible for  
purchasing the pork that Sandee's Bakery  
sells?

A. I am.

Q. Do you decide which specific pork  
products to purchase?

A. Yes, they have no choice. You can  
only purchase what they have. They only have  
one company, that's the company you get.  
There is no -- the price is what the price  
is. There's no choices.

Q. Do you also decide how much of  
each specific pork product to buy?

A. Yes.

Q. And you've had those  
responsibilities since 2008?

A. Since 1976.

Q. Are you familiar with the  
distributors that Sandee's Bakery has  
purchased pork from?

A. Yes.

1 R. Foti

2 Q. What distributors has  
3 Sandee's Bakery used to purchase pork?

4 A. Maplevale Farms, Restaurant Depot,  
5 C.A. Curtze.

6 THE COURT REPORTER: Can you  
7 repeat the last name, please.

8 A. Curtze, C-U-R-T-Z-E. And if you  
9 go back to 2008, probably Sysco Foods.

10 Q. Any other distributors that you  
11 can recall?

12 A. Going back to 2008, Whitehawk.

13 Q. Okay. All right. So I'm going  
14 share my screen with you here.

15 Okay. Do you see -- are you able  
16 to see my screen?

17 A. Yes.

18 MR. COHEN: Can you expand it  
19 and make it bigger?

20 THE WITNESS: I can see it,  
21 but...

22 THE COURT REPORTER: Counsel, do  
23 you want this marked as an exhibit and  
24 if so, what tab number?

25 MR. GALLUP: Okay. So it's

1 R. Foti

2 tab 1, Exhibit 1.

3 (Whereupon, Foti Exhibit 1,  
4 SANDEES00000233 through '0235 was  
5 marked for identification as of this  
6 date by the Reporter.)

7 BY MR. GALLUP:

8 Q. Okay. I'm showing you a document  
9 with Bates range SANDEES0000233 through '235.  
10 You see that on the bottom here.

11 I'll note for the record that this  
12 document was extracted from a larger  
13 collection of scanned invoices produced as a  
14 single document with Bates numbers ranging  
15 from SANDEES00000208 through '259, and this  
16 document was released without a cover email.

17 So drawing your attention to the  
18 second page, which ends in Bates number 234,  
19 do you recognize this document?

20 A. Yes.

21 Q. What is it?

22 A. Invoice from C.A. Curtze.

23 Q. Would you have received this in  
24 the normal course of business?

25 A. Yes.

1 R. Foti

2 Q. Is there any particular reason  
3 Sandee's Bakery would choose to purchase pork  
4 from Maplevale Farms?

5 MR. COHEN: Objection to  
6 foundation.

7 You can answer.

8 A. No. Just needed pork. You know,  
9 one of our suppliers.

10 Q. What pork product is listed on  
11 this document?

12 A. Pork butt.

13 Q. Can you tell what brand the pork  
14 butt was?

15 A. No. It says "PACKER." I'm not  
16 sure where it was.

17 Q. What is your understanding of what  
18 "PACKER" means for the brand here?

19 MR. FINLEY: Objection to form.

20 A. Not sure.

21 Q. Would the brand have varied as it  
22 has for the other distributors we talked  
23 about so far?

24 A. Yes.

25 Q. Do you recall what defendant

1 R. Foti

2 produced this product?

3 MR. FINLEY: Objection to form.

4 A. No.

5 Q. Do you recall what brands  
6 Maplevale Farms ordinarily would sell?

7 MR. FINLEY: Object to form.

8 A. We sell most the main brands:  
9 Seaboard, Hormel, Tyson. Whatever brand they  
10 got. Smithfield. Got them all different  
11 ones from them.

12 Q. What price is listed for the  
13 pork butts on this invoice?

14 A. 1.64.

15 Q. Is the date on this invoice  
16 June 29th, 2018?

17 A. Yes.

18 Q. Did Sandee's Bakery negotiate the  
19 price it paid for this product?

20 A. No.

21 Q. Was Sandee's Bakery ever able to  
22 negotiate the prices it paid for pork  
23 products purchased from Maplevale Farms?

24 A. No.

25 Q. Was there a contract that set the



1 R. Foti

2 price of pork that Sandee's Bakery purchased  
3 from Maplevale Farms?

4 A. No.

5 Q. Did Sandee's Bakery pay whatever  
6 price Maplevale Farms set?

7 A. Yes.

8 Q. Do you contend the price that  
9 Maplevale Farms charged Sandee's Bakery was  
10 affected by the alleged conspiracy?

11 MR. FINLEY: Objection; calls  
12 for a legal conclusion.

13 The witness may answer.

14 A. Yes.

15 Q. How was the price that  
16 Maplevale Farms charged Sandee's Bakery  
17 affected by the alleged conspiracy?

18 MR. FINLEY: Same objection.

19 MR. COHEN: Calls for a legal  
20 conclusion.

21 A. They have to charge whatever their  
22 cost is. They increased it. They have to  
23 increase it to us.

24 Q. Did Sandee's Bakery pay the full  
25 overcharge that Maplevale Farms paid?

1 R. FOTI

2 MR. FINLEY: Same objection.

3 A. Yes.

4 Q. Were -- were the pork butts that  
5 Sandee's Bakery purchased from  
6 Maplevale Farms ever enhanced or brined in  
7 any way?

8 A. No.

9 Q. What impression do you have of the  
10 pork products that Sandee's Bakery purchased  
11 from Maplevale Farms?

12 MR. COHEN: Objection;  
13 foundation.

14 MR. FINLEY: Objection; vague.

15 A. Good quality.

16 Q. Did Maplevale Farms ever offer  
17 branded pork products?

18 MR. FINLEY: Objection; asked  
19 and answered.

20 A. No.

21 Q. All right. I'm going to share my  
22 screen with you again. This is tab 4. It's  
23 marked as Sandee's Exhibit 4. I'm going to  
24 flip the screen so we can read the Bates  
25 numbers.

1 R. Foti

2 Q. I'll zoom in a little bit more.

3 Is that better?

4 A. Yes, Fiorucci.

5 Q. And do you know which defendant  
6 produced that capicola?

7 MR. FINLEY: Objection; form.

8 A. Fiorucci.

9 Q. What price is listed?

10 A. 3.89 -- 3.80 a pound.

11 Q. And then to the ham, is that a  
12 Hormel product?

13 A. Yes.

14 Q. What price is listed for the ham?

15 A. 1.68.

16 Q. What is your understanding of what  
17 the 10 percent -- after Hormel ham on this  
18 document, what's your understanding what that  
19 10 percent number means?

20 MR. COHEN: Objection; calls for  
21 speculation, form.

22 A. Ten percent water.

23 Q. Okay. And what price is listed  
24 for the Hormel ham?

25 A. 1.68 a pound.

1 R. Foti

2 Q. And then to the salami, do you  
3 know which -- what brand is the salami?

4 A. Margherita.

5 Q. And do you know which defendant  
6 produced that salami?

7 MR. FINLEY: Objection; form.

8 A. Margherita.

9 Q. What price is listed?

10 A. 3.89 a pound.

11 Q. Was Sandee's Bakery able to  
12 negotiate the prices it paid for any of these  
13 pork products?

14 A. No.

15 Q. Was there a contract that set the  
16 prices for the pork products Sandee's  
17 purchased?

18 A. No.

19 Q. Did Sandee's Bakery pay whatever  
20 prices J. Mills set for pork products?

21 A. Yes.

22 Q. Do you contend that the prices  
23 J. Mills charged you were affected by the  
24 alleged conspiracy?

25 MR. FINLEY: Objection; calls

1 R. Foti

2 for a legal conclusion. Calls for  
3 content of expert witness testimony.

4 The witness may answer.

5 A. Yes.

6 Q. And how were the prices that  
7 J. Mills charged Sandee's Bakery affected by  
8 the alleged conspiracy?

9 MR. FINLEY: Same objections.

10 The witness may answer.

11 A. They passed the increase down to  
12 us. Cost more. Our cost goes up.

13 Q. Did J. Mills pass the full  
14 overcharge that they were forced pay down to  
15 Sandee's Bakery?

16 MR. FINLEY: Same objection.

17 The witness may answer.

18 A. Yes.

19 Q. And how does Sandee's Bakery use  
20 these particular pork products in its  
21 restaurant?

22 MR. FINLEY: Downstream  
23 discovery objection.

24 A. Some in sandwiches. Some in  
25 sales. Pepperoni was just sold stick by